IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

C .W.P.No.2731 of 1982

DATE OF ORDER: 17.1.2007

Kanhaya Lal now represented by his LR s

i)Mrs Kamaljit Kaur - widow;
ii)Sh. Surinder Pal - son;
iii)Ms. Chaitra Mohiene - daughter; and
iv)Sh. Dinesh Kumar - son

...Petitioner(s)

Versus

State of Haryana and Others

....Respondent(s)

CORUM : HON'BLE MR. JUSTICE M.M. AGGARWAL

.*.*.*.

Present: Mr. Raman Sharma, Advocate.

Mr. Jitender Chauhan, Addl.A.G., Haryana.

M.M. AGGARWAL,J

Petitioner had joined as Male Social Worker in the Department of Welfare of Scheduled Caste and Backward Classes on 8.9.1959.

Respondent No.3 Dhanpat Singh joined as District Welfare Officer on 16.11.1959 and Baldev Singh respondent No.4 joined as Tehsil Welfare Officer. Thereafter, Dhanpat Singh was promoted as District Welfare Officer on 20.7.1973 whereas Baldev Singh was promoted as

District Welfare Officer on 9.4.1982. Present writ petition had been filed with the prayer that the petitioner be promoted as District Welfare Officer from the date, his juniors i.e respondents No.3 & 4 were promoted.

On behalf of the State, this petition was contested on the ground that only Tehsil Welfare Officers were entitled to be promoted as District Welfare Officers and that the petitioner being Male Social Worker was not so entitled as per rules. It was also pleaded that during the year 1966-1967, reputation for honesty of the petitioner was not found good and those remarks were conveyed to the petitioner. However, it was admitted that draft rules, which made eligible only Tehsil Welfare Officers to be promoted as District Welfare Officers were not approved finally.

It is admitted position that when draft rules are not approved then the petitioner and respondents No.3 & 4 are to be governed by Punjab Welfare Department, Class III Service Rules, 1962. Rule 8(1) (g) provided that the post of District Welfare Officer shall be filled up by promotions among Tehsil Welfare Officer and Male Social Workers. Rule 8(3) Clause (v) of those rules further provides that seven years experience was required on the post of Tehsil Welfare Officer and Male Social Worker for promotion to the post of District Welfare Officer. These rules show that Tehsil Welfare Officers and Male Social Workers were equal in all respects for being considered for promotion to the post of District Welfare Officer.

It is admitted position that respondents No.3 & 4 were juniors to the petitioner. Respondent No.3 was promoted in the year 1973. Petitioner filed present writ petition only in the year 1982 and now counsel for the petitioner does not press his claim as far as promotion of respondent No.3 is concerned but prays that petitioner should have been promoted from

the date, his junior respondent No.4 had been promoted.

Respondent No.4 was promoted to the post of District Welfare Officer on 9.4.1982. Even if there had been some remarks for the year 1966-1967, these would not stand in the way of promotion of the petitioner, if the case was considered in the year 1982. It is also not the case of the petitioner that petitioner was considered in 1982 and then not promoted due to adverse remarks.

Petitioner, as such, was entitled to be considered and promoted at least on 9.4.1982 when respondent No.4, his junior promoted.

Under these circumstances, this petition is allowed. Petitioner shall be deemed to have been promoted as District Welfare Officer from 9.4.1982. He will be entitled to all consequential benefits.

Petitioner is stated to be already retired and died during the pendency of this petition. His Lrs were brought on record. Let compliance of this order be made within a period of three months and all the arrears due be paid within another period of three months to the LRs, failing which, respondent-State shall be liable to pay interest on arrears at the rate of 6 % per annum from today onwards.

January 17, 2007 (M.M. AGGARWAL)
manoj JUDGE